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14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA - SAN JOSE DIVISION
16

17 ACER, INC., ACER AMERICA
18 CORPORATION AND GATEWAY, INC.,
Plaintiffs,

19 v.

20 TECHNOLOGY PROPERTIES LIMITED,
PATRIOT SCIENTIFIC CORPORATION,
21 and ALLIACENSE LIMITED,
22 Defendants.

23 BARCO, N.V.,

24 Plaintiff,

25 v.

26 TECHNOLOGY PROPERTIES LIMITED,
PATRIOT SCIENTIFIC CORPORATION,
27 and ALLIACENSE LIMITED,
28 Defendants.

Case No. 5:08-cv-00877 JF

**DEFENDANTS' SUPPLEMENT TO THE
SUPPLEMENTAL JOINT CASE
MANAGEMENT CONFERENCE
STATEMENT**

Date: September 18, 2009
Time: 10:30 a.m.
Dept: Courtroom 3, 5th Floor
Before: Honorable Jeremy Fogel

Case No. 5:08-CV-05398 JF (related case)

1 Defendants Technology Properties Limited (“TPL”), Patriot Scientific Corporation, and
 2 Alliacense Limited (collectively, “Defendants”) hereby submit the following Supplement to the
 3 Supplemental Joint Case Management Conference Statement filed on September 8 to notify the
 4 Court that the U.S. Patent Office has issued a Notice of Intent to Reissue an *Ex Parte*
 5 Reexamination Certificate (“NIRC”) for U.S. Patent 5,809,336 (“the ’336 Patent-in-Suit”). A
 6 copy of the NIRC has been attached as Exhibit A for the Court’s reference.

7 As described in the September 8 Joint Case Management Conference Statement
 8 (“Statement”), five *ex parte* requests for reexamination have been filed on the ’336 Patent-in-
 9 Suit. Three of those pending reexaminations were administratively merged on April 11, 2008
 10 (Reexams # 90/008,237, 90/008,306, and 90/008,474) while the fourth¹ and fifth requests were
 11 recently denied. *See* Docket Nos. 147 (case no. 5:08-cv-0877) and No. 60 (case no. 5:08-cv-
 12 05398). On September 11, 2009, the Patent Office issued the NIRC on the ’336 Patent-in-Suit in
 13 the merged proceedings, stating that “prosecution on the merits is (or remains) closed in this *ex*
 14 *parte* reexamination proceeding ... A Certificate will be issued in view of ... (e) Other:
 15 Examiner’s Amendment of 8/6/09.” Exh. A at 3. The examiner also recited the reasons for
 16 patentability and set forth that asserted claims 1, 6, and 10 will re-issue. *Id.* There has been no
 17 change in the status of the fourth and fifth requests since the September 8 Joint Case Management
 18 Statement.

19 Defendants believe that the re-issuance of the ’336 Patent-in-Suit may expedite the
 20 eventual resolution of this dispute and potentially impact settlement positions. Thus, as described
 21 in the Defendants’ portion of the September 8 Statement, Defendants request that the Court enter
 22 no more than a brief 45-day extension in the current stay to allow the ’336 Patent-in-Suit to re-
 23 issue. Thereafter, this case should resume as quickly as possible for the reasons set forth in the
 24 Defendants’ portion of the September 8 Statement.

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 26
 27
 28 ¹ On August 25, 2009, the requestor re-filed a corrected reexamination request that is currently
 pending.

1 Dated: September 15, 2009

FARELLA BRAUN & MARTEL LLP

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3 By: /s/ John Cooper
John L. Cooper

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5 Attorneys for Defendants
TECHNOLOGY PROPERTIES LIMITED
and ALLIACENSE LIMITED

6
7 I represent that concurrence in the filing of this
document has been obtained from each of the
8 other signatories which shall serve in lieu of
their signatures on this document.

9
10 KIRBY NOONAN LANCE & HOGE, LLP

11 By: /s/ Charles Hoge
Charles T. Hoge

12
13 Attorneys for Defendant
PATRIOT SCIENTIFIC CORPORATION